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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,392	03/28/2001	Jeffrey R. Hirsch	0112300-642	3729
22434	7590	07/20/2005		
BEYER WEAVER & THOMAS LLP			EXAMINER	
P.O. BOX 70250			MOSSER, ROBERT E	
OAKLAND, CA 94612-0250			ART UNIT	PAPER NUMBER
			3714	

DATE MAILED: 07/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Tak

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/819,392	HIRSCH ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Robert Mosser	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 09 July 2004.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-74 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-74 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

**DETAILED ACTION**

◆  
**This action is final.**

◆  
**Claims 1-74 are pending.**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 1-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrie USP 5,980,384 in view of Coelho et al USP 5,466,866.

Regarding claim 1,12, 13, 25-27, 32, 33, 44, 53-57, 61-64, 66, and 70, Barrie teaches a gaming apparatus and method in an electronic gaming machine for allowing a player to participate in a wagering game (abstract) through the deposit of monies or

credits into an input device (Col 6:29-37), the electronic determination and display of a game including game outcome (Col 12:30-36), the display of a background in a static location (Figures 2-3, Elm 226, 214), and the outputting of monies or credits through an output mechanism (Col 13:37-45). In addition to the electronic display (512), Barrie further teaches the inclusion a memory device (516), a processor (514) for retrieving, generating, and displaying graphical images resultant of a game outcome (Figures 1,2,3,5 & Col 13:55-59) including a first and second graphical image (123, 113) wherein the motion of one of the first and second graphical image is altered with respect to the remaining graphical image to create an "apparent" movement (animation/ apparent movement) with respect to the remaining image in the rolling of displayed game symbols over a displayed background (Col 12:24-36).

Barrie however is silent regarding displaying less then all of said first or second graphical image with at least one dimension greater then at least one predetermined dimension of the display is partially displayed within the perimeter of the display frame at any one time. In a related game graphic processing system Coelho teaches the inclusion of the above feature commonly known in the art as "scrolling" (Figure 5 & Col 9:21-28). It would have been obvious to one of ordinary skill in the art at the time of invention to have incorporated the game graphics engine of Coelho in the game device Barrie in order to save the time and cost required to develop a unique graphics engine as taught by Coelho (Col 1:22-29).

Limitations directed to the retrieval or transfer of graphical data between memory locations and or display memory locations are implicit to the operation of a computing

device as any computer game information (be it related to graphics or actual game function) must be stored on a computer accessible media in order said computer to access the information and resultant thereof produce a display depicting the state of the game as demonstrated in figures 1-2 of Coelho and 4-5 of Barrie.

Regarding claim **2** in addition to the above stated, Coelho teaches the use of image buffers (Col 2:63-65).

Regarding claims **3, 4, 23, 24, 49, 52, 60, 67, and 74** in addition to the above stated, Coelho teaches the use of screen depth or the Z-position in order to determine which image data is displayed for a particular location in the combination of over laying images (Figures 5, 8, & Col 6:14-50).

Regarding claims **5-8, 14-15, 18, 20, 22, 29-31, 34-36, 41, 50, 51, 58, 59, 65, 71, and 72**, in addition to the above stated, Coelho teaches the use of a XY coordinate system (Col 6:11-13), the variation of XY position with time (Col 2:38-50 & Col 9:21-28), animation or apparent movement (Figure 4, Col 10:12-21), and the determination of image velocity (Col 9:20-27 "stationary" "scrolling").

Regarding claims **9-10, 39, 46, 47, and 73**, in addition to the above stated, Coelho teaches the use of pixel data including the use of transparent pixels in sprites (Col 2:50-65 & Col 8:10-18).

Regarding claim **11**, in addition to the above stated, the examiner gives official notice that the detection of collisions between graphical objects such a ghost and Pac-Man (as discussed by Coelho) is extremely old and well known in the art of computer gaming for determining game outcome. Further as the applicant has not necessarily

defined the collision as resultant of game play the collision is additionally interpreted as resultant of overlaying the first image onto a second image as shown in Figure 5 of Coelho (“sprite”, “background”). Further details regarding the detection of the collision or overlap may be found in the rejection of at least claim 3 above.

Regarding claim **16**, in addition to the above stated, Coelho teaches the dimensions of the specified first or second graphical image is at least two times greater than one dimension of the display frame (Figure 5, “background”, “display screen”).

Regarding claims **17, 19, 21, and 45**, in addition to the above stated ,Coelho teaches the use of “tiles” to create a first or second graphical image consisting of a plurality of modular sections (Figure 6 & Col 10:5-21).

Regarding claim **28**, in addition to the above stated, Coelho teaches other bitmaps may be smaller then the background bitmap (Col 2:54-63) and hence that the background graphic is larger then all other graphical images as claimed.

Regarding claim **37**, in addition to the above stated, Coelho teaches a process of animation wherein the background is moved opposed to the generation of a plurality of frames (Col 9:20-27).

Regarding claims **38, 40, and 48**, in addition to the above stated, Coelho teaches a video buffer (Col 2:63-65) in addition to a display adapter for driving a display (Col 3:48-52). It would have been obvious to one of ordinary skill in the art at the time of invention to have included the buffer and display adapter of Coelho into the device of Barrie in order to insure compatibility between the game engine and the game hardware.

Regarding claims **42**, and **43**, in addition to the above stated, Coelho teaches a game wherein the player may control the movement of a character through a maze including the displaying of character movement (Col 2:38-65). As the player observes their avatar (Pac-Man) responding to their controlling actions they observe a change in their avatars position responsive to their control inputs and hence are able to evaluate a velocity of their avatar. It would have been obvious to one of ordinary skill in the art at the time of invention to have included the above feature into Barrie's game embodiment shown figures 2-3 of Barrie in order to allow the use of skill or perceived-skill based gaming in the invention of Barrie.

Regarding claims **68**, and **69**, in addition to the above stated, Coelho teaches that each object has size including a height and width (Col 6:10).

### ***Response to Arguments***

Applicant's arguments with respect to claims **1-74** have been considered but are moot in view of the new ground(s) of rejection as necessitated by applicant's amendment.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Mosser whose telephone number is (571)-272-4451. The examiner can normally be reached on 8:30-4:30 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on (571) 272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JESSICA HARRISON  
PRIMARY EXAMINER